IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP NO.201 of 2007

DATE OF DECISION: 11.01.2007.

Mool Chand Sharma ..Petitioner.

Versus

The State of Punjab and others ..Respondents.

CORAM: HON'BLE MR.JUSTICE J.S. KHEHAR
HON'BLE MR. JUSTICE S.D. ANAND

PRESENT: Mr.R.L.Batta, Senior Advocate with
Mr. M.K. Sajjan, Advocate
for the petitioner.

J.S. Khehar, J. (oral)

The petitioner was approved as an agent for Messrs Faridabad Gun House and was discharging his duties as such. During the course of the discharge of his duties as an agent, a complaint was received against the petitioner dated 13.10.2004, alleging that although the complainant was desirous of purchasing cartridges, for which a bill of Rs.616/- was prepared by the petitioner, yet the petitioner demanded a sum of Rs.950/- therefor.

Consequent upon the acceptance of the aforesaid factual position, the District Magistrate, Faridabad, having conducted an enquiry against the petitioner and having found the allegations contained in the complaint correct, by an order dated 25.1.2005 restrained Messrs Faridabad Gun House from allowing the petitioner to continue to discharge his duties as an agent/retainer.

The petitioner submitted a request for reconsideration of the order dated 25.1.2005. The District Magistrate, Faridabad, having reconsidered the same, again arrived at the conclusion, that the petitioner was not fit to work as an agent with Messrs Faridabad Gun House, by his order dated 24.5.2005.

The petitioner preferred an appeal dated 5.5.2006 against the aforestated two orders passed by the District Magistrate, Faridabad (in his capacity as Licensing Authority) dated 25.1.2005 and 24.5.2005. The appellate authority by an order passed on the same date, on which the appeal was preferred, i.e. 5.5.2006 dismissed the appeal preferred by the petitioner.

Through the instant writ petition, the petitioner has impugned the orders dated 25.1.2005, 24.5.2005 and 5.5.2006 (referred to hereinabove). The solitary contention of the learned counsel for the petitioner, is that the petitioner had not demanded anything in excess of the figure mentioned on the receipt prepared, consequent upon the claim made by the complainant for the purchase of cartridges. It is the contention of the petitioner that the complainant was not agreeable to pay value added tax on the purchase of the cartridges under reference, and as such, the petitioner denied the request of the complainant for the purchase of the cartridges, in the absence of value added tax. It is also the contention of the learned counsel for the petitioner that the complainant addressed a written communication to the authorities, asserting therein that there had been a compromise between the parties, and that, the complainant was no longer desirous of pursuing his complaint any further.

We have considered the aforestated two submissions of the learned counsel for the petitioner, but find no merit therein. In so far as the first issue is concerned, the same pertains to a disputed question of fact. The District Magistrate, Faridabad, in his capacity as Licensing Authority, passed the first impugned order on 25.1.2005, and on a representation made by the petitioner, got the matter re-enquired and passed the second order dated 24.5.2005. Since there are no allegations against the District Magistrate, Faridabad, it is not possible for us to accept that the determination at the hands of the District Magistrate, Faridabad, was unfair in any manner.

In so far as the second contention of the learned counsel for the petitioner is concerned, the delinquency committed by the petitioner cannot be obliterated, merely because the complainant has chosen not to press his claim. As such, it is not possible for us to accept even the second contention of the learned counsel for the petitioner.

For the reasons recorded hereinabove, we find no merit in this petition and the same is, accordingly, dismissed.

(J.S. Khehar)
Judge

(S.D. Anand)
Judge

January 11, 2007.
vig